

Surface Mining Reclamation and Enforcement, Interior

§ 901.10

§ 900.11 Organization of this subchapter.

Parts 901 through 950 are reserved for each State alphabetically. The program applicable within each State is codified in the part for that State. In addition, part 955 establishes rules pursuant to part 850 of this chapter for the training, examination and certification of blasters by OSM for surface coal mining operations in States with Federal programs and on Indian lands.

[51 FR 19461, May 29, 1986]

§ 900.12 State regulatory programs.

(a) Upon approval of a State regulatory program the Secretary will publish a final rule to be codified under the applicable part number assigned to the State. The full text will not appear below. Notification of the approval of the program and the dates on which any amendments were submitted will appear. Also included below are the addresses of OSM Headquarters, field and State Regulatory Authority offices where copies of the State programs are available for inspection and copying.

(b) Provisions of approved State regulatory programs or permits issued pursuant to an approved State regulatory program may be enforced by the Secretary or his authorized agents pursuant to sections 504(b) and 521 of the Act and part 842 of this chapter.

§ 900.13 Federal programs and Federal coal exploration programs.

The rules for each Federal program and Federal coal exploration program are codified below under the assigned part for the particular State. Rules governing the training, examination and certification of blasters for surface coal mining operations in States with Federal programs are codified in part 955, and referenced by each Federal program.

[51 FR 19461, May 29, 1986]

§ 900.14 Abandoned mine land programs.

Programs for reclamation of abandoned mine lands are codified under the applicable part for the State. The date of submittal and approval and the addresses at which copies of the pro-

gram are available appear below in the applicable part for each State.

§ 900.15 Federal lands program cooperative agreements.

The full text of any State and Federal cooperative agreement for the regulation of coal exploration and mining on Federal lands is published below under the applicable part. In addition, those requirements of a State program which are applicable on Federal lands in the State shall be specified.

PART 901—ALABAMA

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AUTHORITY: 30 U.S.C. 1201 *et seq.*

§ 901.1 Scope.

This part contains all rules applicable only within Alabama that have been adopted under the Surface Mining Control and Reclamation Act of 1977.

[47 FR 22057, May 20, 1982]

§ 901.10 State regulatory program approval.

The Secretary conditionally approved the Alabama regulatory program, as resubmitted on January 11, 1982, and clarified in a meeting with OSM on April 9, 1982, and in a letter to OSM on May 14, 1982, effective May 20, 1982. He removed the last condition of program approval effective July 18, 1996. Copies of the approved program are available at:

(a) Alabama Surface Mining Reclamation Commission, 1811 Second Avenue, 2nd Floor, P.O. Box 2390, Jasper, AL 35502.

(b) Office of Surface Mining Reclamation and Enforcement, Birmingham Field Office, Barber Business Park, 135 Gemini Circle, Homewood, AL 35209.

[64 FR 20165, Apr. 26, 1999]

§ 901.15 Approval of Alabama regulatory program amendments.

The following is a list of the dates amendments were submitted to OSM, the dates when the Director's decision approving all, or portions of these

amendments, were published in the FEDERAL REGISTER and the State citations or a brief description of each amendment. The amendments in this table are listed in order of the date of final publication in the FEDERAL REGISTER.

| Original amendment submission date | Date of final Publication | Citation/description |
|---|---------------------------|---|
| November 24, 1982 .. August 29, 1983 | July 27, 1983 | Recodification of ASMC Rules |
| | March 2, 1984 | Ala. Code 9-16-75, 79(1)(a), 87(d), 89(h)(2), 90(b)(10)(b.1), 92(a)(4), 93(f), 94(a), (e), 95 (f), 99(2), 105; ASMC Rules 880-X--: 2A-.06(xx), (yy), (fff), (www)(5), (kkkkkk)(1); 5A-.02(1)(i), .17(1)(n), .18, .36; 8C-.09; 8D-.05(1)(b), (4); 8E-.06(2), (5)(a); 8F-.07, .08(1)(d), (p), (2), .09(2)(e); 8G-.05(1)(b), (4); 8H-.06(2), (5)(a); 8I-.07(1)(d), (2), (p), .08(2)(e), .09; 8J-.09(4)(i), .11; 8K-.05(4)(a), .12(1)(a), (b); 8N-.07, (c), .08, .09, .13(d); 10A-.03; 10B-.06(a); 10C-.03, .30 through .35, .34-4(e)(2), .64(3); 10D-.03, .28-32, .31-4(e)(2), .62(3); 10G-.01, .07(a); 10J; 11C-.02(1)(b), (2)(b). |
| November 28, 1983 .. | July 5, 1984 | ASMC Rules 880-X-8C-.06; 10C-.13, .17, .20, .27, .36; 10D-.13, .17, .20, .25, .33; Ala. revised systems Ch. V, § 731.14(f), (g)(9). |
| January 9, 1984 | September 27, 1984 | ASMC Rules 880-X-10C-.30(c); 10D-.28(3); 12A-.01 through .08; and other items. |
| May 22, 1985 | July 19, 1985 | ASMC Rules 880-X-2E. |
| April 2, 1985 | December 3, 1985 .. | Staffing levels. |
| May 7, 1986 | August 14, 1986 | Ala. Senate Bill 445. |
| May 20, 1986 | September 8, 1986 | ASMC Rules 880-X-2A-.06, 8J-.11. |
| November 22, 1989 .. | February 5, 1991 | ASMC Rules 880-X-2A-.06; 2B-.01; 7B-.07; 7D-.10; 8A-.07; 8B-.06; 8C-.08; 8D-.08, .14; 8E-.05, .06, .10, .11; 8F-.08, .14, .18; 8G-.08, .14; 8H-.05, .06, .10, .11; 8I-.07, .14, .18; 8J-.04, .08; 8K-.05 through .09, .11 through .16; 8M-.07 through .12; 10B-.04, .05, .06; 10C-.08, .12, .14, .24, .26, .28, .37 through .49, .52 through .56, .58 through .61, .63; 10D-.08, .12, .14, .23, .24, .26, .34 through .45, .48, .49, .52, .53, .54, .55, .57, .59, .60, .61; 10F-.03; 10G; 10I-.04, .06; 11A-.04; 11B-.02; 11C-.02; 11D-.10; 11E. |
| July 16, 1990 | February 28, 1991 .. | ASMC Rules 880-X-2A-.07(1)(c); 2E-.01 through .11. |
| July 16, 1990 | July 3, 1991 | ASMC Rules 880-X-2A-.06, .07; 8B-.03; 8C-.01 through .07, .09, .10; 8F-.11, .17, .19; 8I-.12, .17, .19; 8J-.08; 9A-.04; 9B-.04; 9C-.03, (7), .04; 9D-.02; 9E-.05; 10B-.01, .02, .06, .07; 10C-.17, .20, .62, .67 through .71; 10D-.17, .20, .56, .65 through .69; 10G-.05. |
| November 22, 1989, July 16, 1990, Au- gust 1, 1991. | May 11, 1992 | ASMC Rules 880-X-2A-.06, .07(3); 6A-.06; 8D-.05, .06; 8G-.05, .06; 8I-.10; 8K-.10, .11, .17, .18; 10C-.40, .45, .62; 10D-.56, .58; 11C-.02. |
| June 23, 1993 | October 21, 1993 ... | ASMC Rules 880-X-8D-.05(8), .09(2); 8F-.08(2)(j); 8G-.05(8), .09(2); 8I-.07(2)(j), .16(1); 8K-.10(1)(a); 10C-.41(1); 10J-.03(f); 12A-.07. |
| March 28, 1997 | December 22, 1997 | 880-X-5A-.22(1)(a), (1)(b) and (2); 880-X-6A-.06(k); 880-X-7B-.07(5); 880-X-9E-.05(2) and (3); 880-X-10C-.23(2)(a), .36(13)(b) and (b)(1), (15)(b)(3), and (16)(a), .38(1)(d) through (1)(f), .40(3)(a); 880-X-10D-.33(13)(b) and (b)(1), (15)(b)(3), and (16)(a), .34(1)(d) through (1)(f), and .36(3)(a). |
| April 14, 1998 | July 6, 1998 | Code of Ala. Sections 9-16-83(c) and (h); 9-16-91(e). |
| August 4, 1998 | December 4, 1998 .. | 880-X-2A-.06; .08; 880-X-6A-.06(d)3.; 880-X-8F-.08(1)(e), (l) and (o); .09(2)(d); .11(1), (1)(b) and (c), (2), (3)(c), (6); .20; 880-X-8H-.06(1)(e)3.(iv); 880-X-8I-.07(1)(e),(l) and (o); .10(1), (2), (2) (b), (g) and (h); .12(1), (1) (b) and (c), (2), (3)(c), (6); .20; 880-X-8J-.13; 880-X-8K-.10(2)(d), (3)(m); 880-X-8N-.07(c); .10; .13(1), (1) (c), (e) and (f), (2); 880X-9D-.02(1)(c); 880-X-10C-.17(1) (a) and (c), (3)(b); .20(1)(a), (d), (e), (f)1., (i)2.(i) and (iii), (l), (3)(b)1. and 2.; .38(1); .54; .55; .62(3); 880-X-10D-.12(9); .17(1) (a) and (c), (3)(b); .20(1) (a), (d), (e), (f)1., (i)2. (i) and (iii), (l), (3)(b)1.and .2; .34(1); .56(3); .58; 880-X-10G-.03(2); .04(3)(b); 880-X-11B-.02 (8)(d), (9); 880-X-11D-.11(1). |
| August 17, 1999 | June 8, 2000 | ASMCRA sections 9-16-91(e)(1), (e)(3), (e)(4); and (f). |
| April 11, 2000 | June 22, 2000 | 880-X-2A-.06; 880-X-2D-.04(1) and .06; 880-X-8I-.08(2)(d); 880-X-8I-.10(2)(h). |
| August 28, 2001 | February 5, 2002 | ASMC Rules 880-X-2A-.06; 7B-.06(a) through (g), .07 through .12; 8C-.05(1)(g), .06(2)(e); 8D-.08(3); and 8F-.14(1)(2). |
| October 17, 2002 | April 10, 2003 | ASMC 880-X-1B; 880-X-6A-.06(g)2(ii)(l). |

[62 FR 9933, Mar. 5, 1997, as amended at 62 FR 66821, Dec. 22, 1997; 63 FR 35807, July 1, 1998; 63 FR 66987, Dec. 4, 1998; 65 FR 36338, June 8, 2000; 65 FR 38727, June 22, 2000; 67 FR 5207, Feb. 5, 2002; 68 FR 17548, Apr. 10, 2003]

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§ 901.16 Required regulatory program amendments. [Reserved]

Field Office, Barber Business Park, 135 Gemini Circle, Homewood, AL 35209.

[64 FR 20166, Apr. 26, 1999]

§ 901.20 Approval of Alabama abandoned mine land reclamation plan.

The Secretary approved the Alabama abandoned mine land reclamation plan, as submitted on May 29, 1981, and revised on August 13, 1981, effective May 20, 1982. Copies of the plan are available at:

(a) Alabama Department of Industrial Relations, 649 Monroe Street, Montgomery, AL 36131.

(b) Office of Surface Mining Reclamation and Enforcement, Birmingham

§ 901.25 Approval of Alabama abandoned mine land reclamation plan amendments.

The following is a list of the dates amendments were submitted to OSM, the dates when the Director's decision approving all, or portions of these amendments, were published in the FEDERAL REGISTER and the State citations or a brief description of each amendment. The amendments in this table are listed in order of the date of final publication in the FEDERAL REGISTER.

| Original amendment submission date | Date of final publication | Citation/description |
|------------------------------------|---------------------------|--|
| June 15, 1987 | July 7, 1988 | Alabama policies and procedures for land acquisition, management and disposal of property, and reclamation on private lands. |
| April 25, 1990 | August 31, 1990 | Emergency program. |
| June 26, 1992 | January 12, 1993 | Ranking and selection of AML projects. |
| October 1, 1993 | June 30, 1994 | Eligibility and definition of AML. |
| December 5, 1994 | August 15, 1995 | Ranking and selection of AML projects; administrative and management structure. |

[62 FR 9934, Mar. 5, 1997]

§ 901.30 State-Federal cooperative agreement.

The Governor of the State of Alabama and the Secretary of the Department of the Interior (Secretary) enter into a Cooperative Agreement (Agreement) to read as follows:

ARTICLE I: INTRODUCTION, PURPOSE AND RESPONSIBLE AGENCIES

A. *Authority:* This agreement is authorized by section 523(c) of the Surface Mining Control and Reclamation Act of 1977 (the Act), 30 U.S.C. 1273(c), which allows a State with a permanent regulatory program approved by the Secretary under 30 U.S.C. 1253, to elect to enter into an Agreement for State regulation of surface coal mining and reclamation operations on Federal lands. This Agreement provides for State regulation of surface coal mining and reclamation operations in Alabama subject to the Federal lands program (30 CFR parts 740-746), consistent with State and Federal Acts governing such activities, and the Alabama State Program (Program).

B. *Purpose:* The purposes of this Agreement are to (a) foster Federal-State cooperation in the regulation of surface coal mining and reclamation operations; (b) minimize inter-governmental overlap and duplication; and

(c) provide uniform and effective application of the Program on all lands in Alabama in accordance with the Act, the Program, and this Agreement.

C. *Responsible Administrative Agencies:* The Alabama Surface Mining Commission (ASMC) shall be responsible for administering this Agreement on behalf of the Governor. The Office of Surface Mining (OSM) shall administer this Agreement on behalf of the Secretary.

ARTICLE II: EFFECTIVE DATE

After it has been signed by the Secretary and the Governor, this Agreement shall be effective 30 days after publication in the FEDERAL REGISTER as a final rule. This Agreement shall remain in effect until terminated as provided in Article XI.

ARTICLE III: DEFINITIONS

The terms and phrases used in this Agreement which are defined in the Act, 30 CFR 700, 701, and 740, the approved State Program and the State Act, and in the rules and regulations promulgated pursuant to those Acts, shall be given the meanings set forth in said definitions. Where there is a conflict between the above referenced State and Federal definitions, the definitions used in the approved State Program will apply, except

in the case of a term which defines the Secretary's continuing responsibilities under the Act and other laws.

ARTICLE IV: APPLICABILITY

In accordance with the Federal lands program in 30 CFR part 745, the laws, regulations, terms and conditions of the Program are applicable to lands in Alabama subject to the Federal lands program except as otherwise stated in this Agreement, the Act, 30 CFR 745.13, or other applicable laws or regulations.

ARTICLE V: GENERAL REQUIREMENTS

The Governor and the Secretary affirm that they will comply with all the provisions of this Agreement.

A. *Authority of State Agency:* ASMC has and shall continue to have the authority under State law to carry out this Agreement.

B. *Funds:* Upon application by ASMC and subject to appropriations, OSM shall provide the State with the funds to defray the costs associated with carrying out responsibilities under this Agreement as provided in section 705(c) of the Act and 30 CFR 735.16. Such funds shall cover the full cost of carrying out these responsibilities provided that such cost does not exceed the estimated cost the Federal government would have expended in regulating surface coal mining operations on Federal lands in Alabama in the absence of an agreement. If the State requests funds and sufficient funds have not been appropriated to OSM, OSM and the ASMC shall promptly meet to decide on appropriate measures that will insure that mining operations are regulated in accordance with the Program. If agreement cannot be reached, then either party may terminate the Agreement in accordance with 30 CFR 745.15. Funds provided to the State under this Agreement shall be adjusted in accordance with Office of Management and Budget Circular A-102, Attachment E.

C. *Reports and Records:* ASMC shall make annual reports to OSM containing information with respect to compliance with the terms of this Agreement, pursuant to 30 CFR 745.12(d). Upon request, ASMC and OSM shall exchange information developed under this Agreement, except where prohibited by Federal law.

OSM shall provide ASMC with a copy of any final evaluation report prepared concerning State administration and enforcement of this Agreement.

D. *Personnel:* ASMC shall have the necessary personnel to fully implement this agreement in accordance with the provisions of the Act and the approved State Program.

E. *Equipment and Laboratories:* ASMC will assure itself access to equipment, laboratories, and facilities with which all inspections, investigations, studies, tests, and

analyses can be performed which are necessary to carry out the requirements of the Agreement.

F. *Permit Application Fees and Civil Penalties:* The amount of the fee accompanying an application for a permit shall be determined in accordance with Section 15 of the Alabama Surface Mining Control and Reclamation Act of 1981, Section 880-X-8B-.07 of the State regulations, and the applicable provisions of the State Program and Federal law. All permit fees and civil penalties collected from operations on Federal lands will be retained by the State and shall be deposited with the State Treasurer in the Alabama Surface Mining Fund. The financial status report submitted pursuant to 30 CFR 735.26 shall include the amount of fees collected during the prior State fiscal year.

ARTICLE VI: REVIEW OF PERMIT APPLICATION PACKAGE

A. *Submission of Permit Application Package:* ASMC and the Secretary shall require an operator proposing to conduct surface coal mining operations on Federal lands covered by this Agreement to submit a permit application package (PAP) in an appropriate number of copies to ASMC. ASMC shall furnish OSM with an appropriate number of copies of the PAP. The PAP shall be in the form required by ASMC and include any supplemental information required by OSM or the Federal land management agency. At a minimum, the PAP shall include the information necessary for ASMC to make a determination of compliance with the State Program and for the appropriate Federal agency to make a determination of compliance with applicable requirements of Federal laws and regulations for which it is responsible.

B. *Review Procedures Where Leased Federally-Owned Coal Is Not Involved:*

1. ASMC shall assume primary responsibility for the analysis, review and approval or disapproval of the permit application component of the PAP required by 30 CFR 740.13 for surface coal mining and reclamation operations under the Federal lands program in Alabama not requiring a mining plan under 30 CFR 746.11. ASMC shall be the primary point of contact for operators regarding decisions on the PAP and will be responsible for informing the applicant of determinations.

2. Upon receipt of a PAP that involves surface coal mining and reclamation operations on Federal lands not containing leased Federal coal, ASMC shall (1) transmit a copy of the complete PAP to the Federal land management agency with a request for review pursuant to 30 CFR 740.13(c)(4), and (2) provide OSM with a complete copy of the PAP and any additional information necessary to allow OSM to determine whether the operations are prohibited or limited by the requirements of section 522(e) (1) or (2) of the

Federal Act (30 U.S.C. 1272(e)) and 30 CFR part 761 with respect to areas designated therein by Congress as unsuitable for mining. Except as specified by paragraph 5 of this article, ASMC shall be responsible for obtaining, in a timely manner, the views and determinations of any other Federal agencies with jurisdiction or responsibility over Federal lands affected by a PAP in Alabama.

3. OSM will provide technical assistance to ASMC when requested if available resources allow and will process requests for determinations of compatibility and valid existing rights under 30 CFR part 761 relating to areas designated by Congress under section 522(e)(1) or (2) as unsuitable for mining. OSM will be responsible for ensuring that any information OSM receives from an applicant is promptly sent to ASMC. OSM shall have access to ASMC files concerning mines on Federal lands. The Secretary reserves the right to act independently of ASMC to carry out his responsibilities under laws other than the Federal Act. A copy of all resulting correspondence with the applicant that may have a bearing on decisions regarding the PAP shall be sent to the State.

4. ASMC shall review the PAP for compliance with the Program.

5. Prior to making a decision on a PAP for proposed surface coal mining and reclamation operations for which there is no other concurrent Secretarial action that would trigger compliance with Section 7 of the Endangered Species Act, 16 U.S.C. 1536, ASMC shall obtain the written concurrence of OSM regarding the effect the proposed operations would have on threatened and endangered species and critical habitat in the area affected by the proposed operations, and shall include in any permit that is issued for such operations any terms or conditions which OSM may require to avoid the likelihood of actions which would jeopardize the continued existence of any such species or result in the destruction or adverse modification of its critical habitat.

6. The permit issued by ASMC shall incorporate any terms or conditions imposed by the Federal land management agency, including conditions relating to post-mining land use, and shall condition the initiation of surface coal mining and reclamation operations on compliance with the requirements of the Federal land management agency. After issuing the decision on the PAP, ASMC shall send a notice to the applicant, the Federal land management agency, and OSM with a copy of the permit and written findings.

C. Review Procedures Where Leased Federally-Owned Coal is Involved:

1. ASMC shall assume primary responsibility for the analysis, review and approval or disapproval of the permit application component of the PAP for surface coal mining and reclamation operations on Federal lands in Alabama where a mining plan is re-

quired by 30 CFR 746.11. OSM, as requested, shall assist the State in this analysis and review. The Department of the Interior (Department) shall concurrently carry out its responsibilities under the Mineral Leasing Act (MLA), the National Environmental Policy Act (NEPA), and other applicable Federal laws that cannot be delegated to the State. The Department shall carry out these responsibilities in accordance with the Federal lands program and this Agreement in a timely manner so as to avoid, to the extent possible, duplication of the responsibilities of the State as set forth in this Agreement and the Program. Responsibilities and decisions which can be delegated to the State under other applicable Federal laws may be specified in working agreements between OSM and the State without amendment to this Agreement. The Secretary will consider the information in the PAP and, where appropriate, make decisions required by the Federal Act, MLA, NEPA, and other Federal laws.

2. ASMC will be the primary point of contact for operators regarding the review of the PAP, except on matters concerned exclusively with 43 CFR parts 3480-3487, administered by the Bureau of Land Management (BLM). ASMC will be responsible for informing the applicant of all joint State-Federal determinations. The Secretary may act independently of the State to carry out responsibilities under laws other than the Federal Act or provisions of the Act not covered by the Program, and in instances of disagreement over the Act and the Federal lands program. ASMC shall send to OSM, copies of any correspondence with the applicant and any information received from the applicant regarding the mining plan including the operation and reclamation plan portion of the permit application. OSM shall send to ASMC copies of all independent correspondence with the applicant which may have a bearing on the PAP. As a matter of practice, OSM will not independently initiate contacts with applicants regarding completeness or deficiencies of the PAP with respect to matters covered by the Program.

3. ASMC shall assume the responsibilities listed in 30 CFR 740.4(c) (1), (2), (4), (5), and (6). OSM shall retain the responsibilities listed in 30 CFR 740.4(c)(3) and the exceptions specified in (c)(7) (i) through (vii). OSM shall assist the State in carrying out its responsibilities by:

(a) Distributing copies of the PAP to, and coordinating the review of the PAP among, all Federal agencies which have responsibilities relating to decisions on the PAP. This shall be done in a manner which ensures timely identification, communication and resolution of issues relating to those Federal agencies' statutory requirements. OSM shall request that such other Federal agencies furnish their findings and any requests for

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additional data to OSM within 45 calendar days of their receipt of the PAP.

(b) Providing ASMC with the analyses and conclusions of other Federal agencies.

(c) Addressing conflicts and difficulties of the other Federal agencies in a timely manner.

(d) Assisting in scheduling joint meetings as necessary between State and Federal agencies.

(e) Where OSM is assisting ASMC in reviewing the permit application, furnish the State with the work product within 45 calendar days of receipt of the State's request for such assistance, or earlier if mutually agreed upon by OSM and the State.

(f) Exercising its responsibilities in a timely manner as set forth in a mutually agreed upon schedule, governed to the extent possible by the deadlines established in the Program.

(g) Assuming all responsibility for ensuring compliance with any Federal lessee protection bond requirement.

4. Review of the PAP:

(a) OSM and ASMC shall coordinate with each other during the review process as needed. ASMC shall keep OSM informed of findings during the review process which bear on the responsibilities of other Federal agencies. OSM shall ensure that any information OSM receives which has a bearing on decisions regarding the PAP is promptly sent to ASMC.

(b) The State shall review the PAP for compliance with the Program.

(c) OSM shall review the PAP for compliance with the Act and the requirements of other Federal laws and regulations. OSM and ASMC shall develop a work plan and schedule for PAP review and each shall identify a person as the project leader. The OSM project leader shall serve as the primary point of contact between OSM and ASMC throughout the review process. Not later than 50 days after receipt of the PAP, OSM shall furnish ASMC with its preliminary findings on the PAP and specify any requirements for additional data. To the extent practicable, the State shall provide OSM all available information that may aid OSM in preparing any findings.

(d) ASMC shall provide to OSM written findings indicating whether the PAP is in compliance with the Program, and a technical analysis of the PAP.

(e) ASMC may proceed to issue a permit in accordance with the Program prior to the necessary Secretarial decision on the mining plan, provided that ASMC advises the operator in the permit that Secretarial approval of a mining plan must be obtained before the operator may conduct surface coal mining operations on Federal lands. ASMC shall reserve the right to amend or rescind any requirements of the approved permit to conform with any terms or conditions imposed

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by the Secretary in his approval of the mining plan.

5. Prior to acting on a permit revision or renewal, ASMC shall consult with OSM on whether such revision or renewal constitutes a mining plan modification under 30 CFR 746.18. OSM shall inform the State within 30 days of receiving notice of a proposed revision or renewal, whether any permit revision or renewal constitutes a mining plan modification. Permit revisions which do not constitute mining plan modifications shall be approved solely by the State.

OSM may establish criteria consistent with 30 CFR 746.18 to determine which permit revisions and renewals clearly do not constitute mining plan modifications. If such criteria are promulgated, revisions or renewals which do not constitute mining plan modifications in accordance with the criteria may be approved by ASMC before it submits copies of the revision or renewal to OSM.

ARTICLE VII: INSPECTIONS

A. ASMC shall conduct inspections on Federal lands and prepare and file inspection reports in accordance with the Program.

B. ASMC shall, subsequent to conducting any inspection, and on a timely basis, file with OSM a legible copy of the completed State inspection report.

C. ASMC shall be the point of contact and primary inspection authority in dealing with the operator concerning operations and compliance with the requirements covered by the Agreement, except as described hereinafter. Nothing in this Agreement shall prevent inspections by authorized Federal or State agencies for purposes other than those covered by this Agreement. The Department may conduct any inspections necessary to comply with 30 CFR parts 842 and 843 and its obligations under laws other than the Act.

D. OSM shall ordinarily give the ASMC reasonable notice of its intent to conduct an inspection under 30 CFR 842.11 in order to provide State inspectors with an opportunity to join in the inspection. When OSM is responding to a citizen complaint of an imminent danger to the public health and safety, or of significant, imminent environmental harm to land, air or water resources, pursuant to 30 CFR 842.11(b)(1)(ii)(C), it will contact ASMC no less than 24 hours prior to the Federal inspection, if practicable, to facilitate a joint Federal/State inspection. All citizen complaints which do not involve an imminent danger or significant imminent environmental harm shall be referred to ASMC for action. The Secretary reserves the right to conduct inspections without prior notice to ASMC to carry out his responsibilities under the Federal Act.

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ARTICLE VIII: ENFORCEMENT

A. ASMC shall have primary enforcement authority under the Act concerning compliance with the requirements of this Agreement and the Program. Enforcement authority given to the Secretary under other laws and orders, including but not limited to those listed in Appendix A, is reserved to the Secretary.

B. During any joint inspection by OSM and ASMC, ASMC shall have primary responsibility for enforcement procedures, including issuance of orders of cessation, notices of violation, and assessment of penalties. The ASMC shall inform OSM prior to issuance of any decision to suspend or revoke a permit.

C. During any inspection made solely by OSM or any joint inspection where the ASMC and OSM fail to agree regarding the propriety of any particular enforcement action, OSM may take any enforcement action necessary to comply with 30 CFR parts 843 and 845. Such enforcement actions shall be based on the standards in the approved Program, the Act, or both, and shall be taken using the procedures and penalty system contained in 30 CFR parts 843 and 845.

D. The ASMC and the Department shall promptly notify each other of all violations of applicable laws, regulations, orders, or approved mining permits subject to this Agreement, and of all actions taken with respect to such violations.

E. Personnel of the State and representatives of the Department shall be mutually available to serve as witnesses in enforcement actions taken by either party.

F. This Agreement does not limit the Department's authority to enforce violations of Federal law which establish standards and requirements which are authorized by laws other than the Act.

ARTICLE IX: BONDS

A. ASMC and the Secretary shall require each operator covered by the Federal lands program to submit a single performance bond payable to Alabama and the United States to cover the operator's responsibilities under the Federal Act and the Program. Such performance bond shall be conditioned upon compliance with all requirements of the Federal Act, the Program and any other requirements imposed by the Department or the Federal land management agency. Such bond shall provide that if this Agreement is terminated, the bond shall be payable only to the United States to the extent that lands covered by the Federal lands program are involved.

B. Prior to releasing the operator from any obligation under such bond, the ASMC shall obtain the concurrence of OSM. The ASMC shall also advise OSM of annual adjustment to the performance bond, pursuant to the Program. Departmental concurrence shall

include coordination with other Federal agencies having authority over the lands involved.

Such bond shall be subject to forfeiture with the consent of OSM, in accordance with the procedures and requirements of the Program.

C. Submission of a performance bond does not satisfy the requirements for a Federal lease bond required by 30 CFR Subpart 3474 or lessee protection bond required in addition to a performance bond, in certain circumstances, by Section 715 of the Act.

ARTICLE X: DESIGNATING LAND AREAS UNSUITABLE FOR ALL OR CERTAIN TYPES OF SURFACE COAL MINING OPERATIONS

A. When either ASMC or OSM receives a petition to designate lands areas unsuitable for all or certain types of surface coal mining operations that could impact adjacent Federal and non-Federal lands, the agency receiving the petition shall (1) notify the other of receipt and the anticipated schedule for reaching a decision; and (2) request and fully consider data, information and views of the other.

B. Authority to designate State and private lands as unsuitable for mining is reserved to the State. Authority to designate Federal lands as unsuitable for mining is reserved to the Secretary.

ARTICLE XI: TERMINATION OF COOPERATIVE AGREEMENT

This Agreement may be terminated by the Governor or the Secretary under the provisions of 30 CFR 745.15.

ARTICLE XII: REINSTATEMENT OF COOPERATIVE AGREEMENT

If this Agreement has been terminated in whole or in part it may be reinstated under the provisions of 30 CFR 745.16.

ARTICLE XIII: AMENDMENT OF COOPERATIVE AGREEMENT

This Agreement may be amended by mutual agreement of the Governor and the Secretary in accordance with 30 CFR 745.14.

ARTICLE XIV: CHANGES IN STATE OR FEDERAL STANDARDS

A. The Department or the State may from time to time promulgate new or revised performance or reclamation requirements or enforcement and administration procedures. Each party shall, if it determines it to be necessary to keep this Agreement in force, change or revise its regulations and request necessary legislative action. Such changes shall be made under the procedures of 30 CFR part 732 for changes to the State Program and under the procedures of Section 501 of the Act for changes to the Federal lands program.

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B. ASMC and the Department shall provide each other with copies of any changes to their respective laws, rules, regulations and standards pertaining to the enforcement and administration of this Agreement.

ARTICLE XV: CHANGES IN PERSONNEL AND ORGANIZATION

Each party to this Agreement shall notify the other, when necessary, of any changes in personnel, organization and funding or other changes that will affect the implementation of this Agreement to ensure coordination of responsibilities and facilitate cooperation.

ARTICLE XVI: RESERVATION OF RIGHTS

In accordance with 30 CFR 745.13, this Agreement shall not be construed as waiving or preventing the assertion of any rights that have not been expressly addressed in this Agreement that the State or Secretary may have under other laws or regulations, including but not limited to those listed in Appendix A.

Dated: July 16, 1985.

Signed:

George C. Wallace,
Governor of Alabama.

Dated: June 28, 1985.

Signed:

Ann McLaughlin,
Under Secretary of the Interior.

APPENDIX A

1. The Federal Land Policy and Management Act, 43 U.S.C. 1701 *et seq.*, and implementing regulations.
2. The Mineral Leasing Act of 1920, 30 U.S.C. 181 *et seq.*, and implementing regulations including 43 CFR parts 3480-3487.
3. The National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, and implementing regulations, including 40 CFR part 1500.
4. The Endangered Species Act, 16 U.S.C. 1531 *et seq.*, and implementing regulations, including 50 CFR part 402.
5. The National Historic Preservation Act of 1966, 16 U.S.C. 470 *et seq.*, and implementing regulations, including 36 CFR part 800.
6. The Clean Air Act, 42 U.S.C. 7401 *et seq.*, and implementing regulations.
7. The Federal Water Pollution Control Act, 33 U.S.C. 1251 *et seq.*, and implementing regulations.
8. The Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901 *et seq.*, and implementing regulations.
9. The Reservoir Salvage Act of 1960, amended by the Preservation of Historical and Archaeological Data Act of 1974, 16 U.S.C. 469 *et seq.*
10. Executive Order 1593 (May 13, 1971), Cultural Resource Inventories on Federal Lands.

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11. Executive Order 11988 (May 24, 1977), for flood plain protection. Executive Order 11990 (May 24, 1977), for wetlands protection.

12. The Mineral Leasing Act for Acquired Lands, 30 U.S.C. 351 *et seq.*, and implementing regulations.

13. The Stock Raising Homestead Act of 1916, 43 U.S.C. 291 *et seq.*

14. The Constitution of the United States.

15. The Constitution of the State and State Law.

[50 FR 30921, July 30, 1985]

PART 902—ALASKA

Sec.

902.1 Scope.

902.10 State regulatory program approval.

902.15 Approval of Alaska regulatory program amendments.

902.16 Required program amendments

902.20 Approval of Alaska abandoned mine land reclamation plan.

902.25 Approval of Alaska abandoned mine land reclamation plan amendments.

AUTHORITY: 30 U.S.C. 1201 *et seq.*

§ 902.1 Scope.

This part contains all rules applicable only within Alaska that have been adopted under the Surface Mining Control and Reclamation Act of 1977.

[48 FR 12889, Mar. 23, 1983]

§ 902.10 State regulatory program approval.

The Alaska State program as submitted on July 23, 1982, and as amended and clarified on December 13, 1982, and January 11, 1983, is approved effective May 2, 1983. Beginning on that date, the Alaska Department of Natural Resources shall be deemed the regulatory authority in Alaska for all surface coal mining and reclamation operations and all exploration operations on non-Federal and non-Indian lands. Only surface coal mining and reclamation operations on non-Federal and non-Indian lands shall be subject to the provisions of the Alaska permanent regulatory program. Copies of the approved program are available at the following addresses:

(a) Department of Natural Resources, Division of Mining and Water Management, 3601 C Street, Suite 800, Anchorage, AK 99503-5925, Telephone: (907) 762-2149.